**COLUMBIA GAS**
**System**

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August 21, 1997

Department of the Interior
Minerals Management Service
Mail Stop 4700
381 Elden Street
Herndon, VA 20170-4817

Dear Sirs:

RE: Proposed Rule, Oil Spill Financial Responsibility for Offshore Facilities
(62 FR 14052; March 25, 1997)

Columbia Gas System Service Corporation, on behalf of The Columbia Gas System, Inc. (Columbia), herewith submits comments on the above proposed rule published by the Minerals Management Service (MMS).

Columbia is one of the nation's largest natural gas systems. It consists of a parent holding company, a service company, and operating companies engaged in, among other things, the production, purchase, storage, transmission and distribution of natural gas at wholesale and retail. Directly and indirectly, Columbia serves more than 7 million natural gas customers (12 percent of the nation's total) in 15 states and in the District of Columbia.

Columbia owns and operates pipeline facilities in the Gulf of Mexico for transporting natural gas and its associated natural gas condensates to onshore facilities. Thus, Columbia has a direct interest in this proposed rule and submits the following comments.

**§253.3 How are terms used in this regulation defined?**

The MMS in its Final Rule "Response Plans for Facilities Located Seaward of the Coast Line" at 62 FR 13991, concluded that "natural gas condensates" are "oil." In the instant Notice of Proposed Rulemaking in §253.3, MMS proposes to adopt another definition of "oil" which also sweeps "natural gas condensates" under the definition of "oil." As pointed out in my February 28, 1994 comments on the MMS's Advanced Notice of Proposed Rulemaking "Oil Spill Financial Responsibility for Offshore Facilities Including State Submerged Lands and Pipelines" at 58 FR 44797, Columbia's December 13, 1993 comments to the House Coast Guard and Navigation Subcommittee

of the House Committee on Merchant Marine and Fisheries, regarding its hearing on the MMS's Advanced Notice of Proposed Rulemaking and in my comments on this issue at the MMS's public hearing on June 5, 1997, Columbia believes that "natural gas condensates" are not "oil" and respectfully requests the MMS reconsider its decision.

In support of our position we note that Congress, in its legislative enterprises, has consistently demonstrated its understanding that "natural gas condensates" are not "oil," that EPA has twice recognized "natural gas condensates" are not "oil," that NOAA, in implementing its regulations under OPA 90, has excluded "natural gas condensates" from the definition of "oil," and that DOT, in implementing its regulations under OPA 90, does not include "natural gas condensates" in their definition of "oil."

Aside from the legislative and regulatory precedents, Columbia points to the practical issue. OPA 90 was enacted by Congress to, among other things, provide funds and manpower to contain and remove a spill of "oil." In the unlikely event of a "natural gas condensate" release from a pressurized natural gas pipeline on the OCS, much of the condensate will flash to vapor, rise to the surface and dissipate into the atmosphere. The remainder of the natural gas condensates will rise to the surface and quickly spread out to form a near mono-molecular layer on the water surface. Wind and wave action will agitate the light hydrocarbon film, accelerate its rate of evaporation and break the initial sheen in to smaller and smaller sheens. Usually, by the time an oil spill removal organization's crew and equipment arrives at a release site, the sheen can no longer be found.

In view of these facts, I am concerned that requiring the removal of a substance which cannot effectively be removed does not target scarce financial resources where they produce the greatest environmental benefit.

Recently I was provided a copy of Senator Warner's letter to the MMS and MMS Director Ms. Quarterman's response. I was especially interested in the Director's statement, "We agree with your assertion that a mechanical response to a condensate spill is often impractical in offshore waters." The very practical issue I note above. Thus, we agree on this point.

On the Director's statement, "MMS was compelled by [the definition of oil in] the Oil Pollution Action (OPA) to require response plans for offshore pipelines carrying condensates" statement, I have a contrary view. Three or four years ago I spent time in the Library of Congress and read (to my knowledge) every word recorded in the "Congressional Record" on the House's and Senate's consideration and eventual passage of OPA. In addition, I read (to my knowledge) every report published by any committee or subcommittee which considered OPA. Finally, I read the Conference Committee's report on OPA. I do not recall finding one reference to "natural gas condensates" in the record of OPA. Indeed, in those cases where the need for OPA was discussed the recent (at that time) tanker accident involving the Exxon Valdez was most often mentioned.

The Tory Canyon and other similar tanker catastrophes followed a close second. The record abounds in references to actual and potential tanker oil spills.

In this regard, there was one statement made by Congressman Sharp during the House consideration of Conference Bill HR 1465 (Congressional Record, Vol. 136, No. 104, August 3, 1990, page H6945) which sheds some light on this issue. The Congressman stated, "While the legislation before us is primarily related to oil spills in a marine environment, additional legislation is needed to address other types of spills. The Commerce Committee has already started work on a comprehensive bill to prevent pipeline spills." I am convinced Congress had no intention of including "natural gas condensates" in the OPA definition of "oil."

Moreover, as pointed out previously, NOAA in its Proposed Rule implementing Sec. 1006(e)(1) of the Oil Pollution Act of 1990 (60 Fed. Reg. 39804, August 3, 1995) using the same definition of "oil" draws a clear distinction between "natural gas condensates" and "oil":

> "The definition of 'oil' under OPA does not cover all petroleum-related products. For instance, substances whose properties or behavior are substantially different from oil (e.g., natural gas condensates) are excluded under OPA. However, substances that are relatively similar (e.g., non-petroleum oils such as vegetable oil and animal fats) are covered by OPA."

I have other comments on the Director's letter. However, in view of the fact that the MMS and Columbia occupy some common ground on this issue, and that Columbia is very interested in this Rule which affects its OCS pipelines, I suggest a meeting to expand on our positions.

**Section 253.29 How can I use insurance as OSFR evidence?**

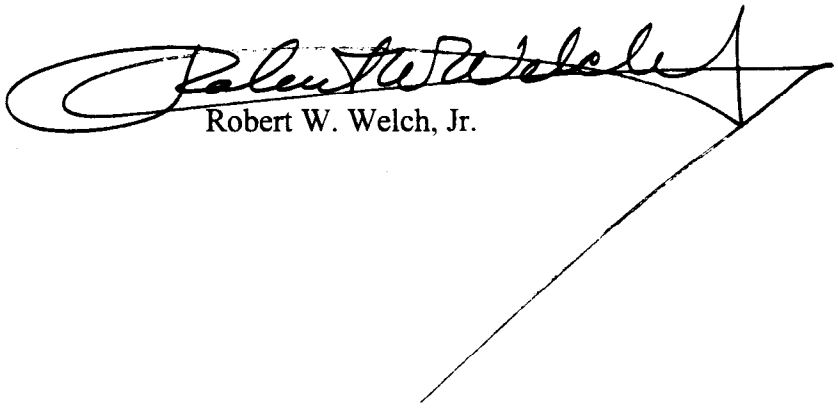
Section 253.29(a) limits insurers to those that fall into one of three categories. A type of insurance company not included in this list is the corporate captive insurance company, which is widely used to provide a variety of corporate insurance coverage. However, they are not rated by A.M. Best's Insurance Reports, Standard and Poor's Insurance Rating Service or any other rating service. Nevertheless, some of these insurance companies may be able to provide financial resource that are adequate for OSFR. Therefore Columbia recommends the following be added to 253.29(a) as paragraph (4).

> (4) A corporate captive insurance company which is able to demonstrate the availability of financial resources and to provide an insurance certificate demonstrating the required OSFR coverage.

Section 253.29(c)(5) limits the use of a "deductible" in the primary layer of insurance. No provision is made for including a self-insured retention as part of the base layer. Columbia recommends that "or self-insured retention" be inserted after "deductible" in each of the three sentences in this paragraph.

Columbia appreciates the opportunity to comment on this proposed rule and trusts the above comments will be of value to MMS. These issues are important to Columbia. If you are interested in meeting, please contact me. My telephone number is 703-295-0489.

Yours very truly,



Robert W. Welch, Jr.